

STATE BOARD OF ACCOUNTS
302 West Washington Street
Room E418
INDIANAPOLIS, INDIANA 46204-2769

SUPPLEMENTAL COMPLIANCE REPORT

OF

CITY OF CROWN POINT

LAKE COUNTY, INDIANA

January 1, 2022 to December 31, 2022



FILED
06/22/2023

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SCHEDULE OF OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Clerk-Treasurer	David Benson	01-01-22 to 12-31-23
Mayor	David D. F. Uran Peter D. Land	01-01-22 to 07-06-22 07-07-22 to 12-31-23
President of the Board of Public Works and Safety	David D. F. Uran Peter D. Land	01-01-22 to 07-06-22 07-07-22 to 12-31-23
President Pro Tempore of the Common Council	Zack Bryan Dawn Stokes	01-01-22 to 12-31-22 01-01-23 to 12-31-23



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF ACCOUNTS
302 WEST WASHINGTON STREET
ROOM E418
INDIANAPOLIS, INDIANA 46204-2769

Telephone: (317) 232-2513
Fax: (317) 232-4711
Web Site: www.in.gov/sboa

TO: THE OFFICIALS OF THE CITY OF CROWN POINT, LAKE COUNTY, INDIANA

This report is supplemental to our audit report of the City of Crown Point (City), for the period from January 1, 2022 to December 31, 2022. It has been provided as a separate report so that the reader may easily identify any Audit Results and Comments that pertain to the City. It should be read in conjunction with our Financial Statement Audit Report of the City, which provides our opinions on the City's financial statement. This report may be found at www.in.gov/sboa/.

As authorized under Indiana Code 5-11-1, we performed procedures to determine compliance with applicable Indiana laws and uniform compliance guidelines established by the Indiana State Board of Accounts. The Audit Results and Comments contained herein describe the identified reportable instances of noncompliance found as a result of these procedures. Our tests were not designed to identify all instances of noncompliance; therefore, noncompliance may exist that is unidentified.

Any Official Response to the Audit Results and Comments, incorporated within this report, was not verified for accuracy.

Beth Kelley, CPA, CFE
Deputy State Examiner

May 23, 2023

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REDEVELOPMENT COMMISSION
CITY OF CROWN POINT

REDEVELOPMENT COMMISSION
CITY OF CROWN POINT
AUDIT RESULTS AND COMMENTS

REDEVELOPMENT COMMISSION GENERAL FUND AND TIF ALLOCATION AREAS

A similar comment also appeared in eight prior reports, including the three most recent Reports B55588, B58524, and B59827.

Condition and Context

The establishment of a Redevelopment General Fund is authorized by Indiana Code 36-7-14-28(c). A Redevelopment Commission has the duties set forth in Indiana Code 36-7-14-11, which provides for the investigation, selection, acquisition, development, and disposal of property in "areas needing redevelopment." The powers granted to a Redevelopment Commission in Indiana Code 36-7-14-12.2 allow the Redevelopment Commission to develop property in the areas needing redevelopment and to carry out other activities "for redevelopment purposes." "Redevelopment" includes activities contained in Indiana Code 36-7-1-18.

Tax Increment Financing (TIF) distributions received for each TIF allocation area were to be receipted into an allocation fund for that specific allocation area per Indiana Code 36-7-14-39(b)(3). The City receipted the TIF Crown Point Sportsplex, the 2014 Redevelopment (Main Street), and I65 W 109th Allocation Areas distributions into separate allocation area funds. However, the TIF I-65 distributions were receipted into the Redevelopment General fund (C.P. Redevelopment Fund), instead of a separate allocation area fund.

The main sources of revenue for the C.P. Redevelopment Fund in 2022 were from TIF distributions for the I-65 Allocation area of \$2,499,206 and the Indiana Department of Transportation grant reimbursements of \$221,369.

The expenses noted below from the C.P. Redevelopment Fund, which were funded by TIF distributions, were not within the restricted uses authorized in Indiana Code 36-7-14-39(b)(3):

1. Purchase of surety bonds for five Redevelopment Commission members, totaling \$500.
2. Purchase of advertising agreement, totaling \$8,000.
3. Purchase of holiday decor, totaling \$12,635.
4. Legal services invoices tested noted that the legal expenses paid were for the Redevelopment Commission. However, descriptions did not always document how the expenses related to the specific TIF district, totaling \$3,887. These expenses included drafting audit responses, meetings with City employees/officials and other professional service providers and consultants, and other legal services including parcel combinations, annexation, sponsorships and partnerships, and tax sale.

Additionally, the expenses noted below were determined to fall within the restricted uses authorized in Indiana Code 36-7-14-39(b)(3); however, the expense was determined to either not occur within the I-65 TIF allocation area or support was not provided to document that the work completed within the I-65 TIF allocation area.

1. Reimbursements for two building façade grants outside of the I-65 TIF area, totaling \$52,573.
2. Attorney fees related to road improvements outside the I-65 TIF area, totaling \$638.

REDEVELOPMENT COMMISSION
CITY OF CROWN POINT
AUDIT RESULTS AND COMMENTS
(Continued)

Criteria

Indiana Code 36-7-14-39(b)(3) states in part:

". . . property tax proceeds . . . shall be allocated to the redevelopment district and, when collected, paid into an allocation fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following:

(A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds which are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.

(C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 27 of this chapter.

(D) Pay the principal of and interest on bonds issued by the unit to pay for local public improvements that are physically located in or physically connected to that allocation area.

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.

(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 25.2 of this chapter.

(G) Reimburse the unit for expenditures made by it for local public improvements (which include buildings, parking facilities, and other items described in section 25.1(a) of this chapter) that are physically located in or physically connected to that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility that is physically located in or physically connected to that allocation area under any lease entered into under [IC 36-1-10](#).

(I) For property taxes first due and payable before January 1, 2009, pay all or a part of a property tax replacement credit to taxpayers in an allocation area as determined by the redevelopment commission. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district (as defined in [IC 6-1.1-1-20](#)) that contains all or part of the allocation area: . . .

(J) Pay expenses incurred by the redevelopment commission for local public improvements that are in the allocation area or serving the allocation area. Public improvements include buildings, parking facilities, and other items described in section 25.1(a) of this chapter.

(K) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance . . .

REDEVELOPMENT COMMISSION
CITY OF CROWN POINT
AUDIT RESULTS AND COMMENTS
(Continued)

(L) Pay the costs of carrying out an eligible efficiency project (as defined in [IC 36-9-41-1.5](#)) within the unit that established the redevelopment commission. . . .

(M) Expend money and provide financial assistance as authorized in section 12.2(a)(27) of this chapter.

The allocation fund may not be used for operating expenses of the commission."

The uses of TIF funds are restricted to those set forth in the Indiana Code. The power of a redevelopment commission to expend such funds is limited to the express statutory powers as set forth in Indiana Code 36-7-14. The use of TIF funds for ongoing maintenance of redeveloped property is not an expressly or impliedly permitted use, except as provided in Indiana Code 36-7-1-18(7) for repairing and maintaining buildings acquired before redevelopment is complete. (Redevelopment Commission of the Town of Munster, Indiana, v. Indiana State Board of Accounts and Paul D. Joyce, State Examiner of State Board of Accounts, 28 N.E.3d 272 (Ind. App., 2015) trans. denied, 34 N.E.3d 251)

COUNCIL COMPENSATION

Condition and Context

The position of a Common Council member has been determined to be a lucrative office. In addition to serving as an elected Common Council member, two Common Council members were appointed to the Redevelopment Commission. The compensation as a Common Council member was fixed by a salary ordinance adopted by the Common Council. However, the two Common Council members also received per diem for serving on the Redevelopment Commission, which did not comply with Indiana Code. The overpayment to the Common Council members totaled \$4,250 in 2022.

Criteria

Indiana Code 36-7-14-7(g) states:

"A redevelopment commissioner who does not otherwise hold a lucrative office for the purpose of Article 2, Section 9 of the Indiana Constitution may receive:

- (1) a salary; or
- (2) a per diem; and is entitled to reimbursement for expenses necessarily incurred in the performance of the redevelopment commissioner's duties."

Indiana Code 36-4-7-2 states in part:

"(a) As used in this section, 'compensation' means the total of all money paid to an elected city officer for performing duties as a city officer, regardless of the source of funds from which the money is paid. . . .

(b) The city legislative body shall, by ordinance, fix the annual compensation of all elected city officers. An ordinance adopted under this subsection that fixes the annual compensation of an elected city officer shall provide for an annual, monthly, or biweekly salary schedule. An elected city officer is not required to report hours worked and may not be compensated based on the number of hours worked."

Units must collect any overpayments made. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)



CITY OF CROWN POINT

Peter D. Land
Mayor

OFFICE OF THE MAYOR

Anthony Schlueter
Chief of Staff

June 10, 2023

Indiana State Board of Accounts
302 W. Washington St., Room E418
Indianapolis, IN 46204-2765

Re: Official Response

The City of Crown Point's corrective action plan as it relates to the State Board of Accounts (SBOA) presented comments; specifically, those surrounding IC 3-8-1-3, at the May 23rd, 2023, exit conference will be addressed in 2023 at the start of our 2024 budget process.

Peter D. Land

City of Crown Point, Mayor

www.crownpoint.in.gov

101 N. East Street • Crown Point, IN 46307

Office (219) 662-3240

Fax (219) 662-3262

REDEVELOPMENT COMMISSION
CITY OF CROWN POINT
EXIT CONFERENCE

The contents of this report were discussed on May 23, 2023, with David Benson, Clerk-Treasurer; Peter D. Land, Mayor; Laura J. Sauerman, Common Council member; Carol S. Drasga, Common Council member; Anthony Schlueter, Chief of Staff; David H. Nichols, City Attorney; Juline Heidbreder, Deputy Clerk-Treasurer; and Sheri Herma, Deputy Clerk-Treasurer.

COMMON COUNCIL
CITY OF CROWN POINT

COMMON COUNCIL
CITY OF CROWN POINT
AUDIT RESULTS AND COMMENTS

BOARD OF PUBLIC WORKS AND SAFETY COMPENSATION

Condition and Context

Per Indiana Code, the mayor is the city executive, and the clerk-treasurer is the fiscal officer. Indiana Code 36-4-9-8 empowers that the city executive is a member of the board of public works and safety. Indiana Code 36-4-10-4.5(b) requires that the fiscal officer shall serve as clerk of the board of public works by attending meetings, preparing agendas, and recording proceedings.

Indiana Code 3-8-1-3 states: "A person may not hold more than one (1) lucrative office at a time, as provided in Article 2, Section 9 of the Constitution of the State of Indiana."

The Mayor and a Common Council member served on the City's Board of Public Works and Safety in 2022. The Clerk-Treasurer, as fiscal officer, served as the Clerk of the Board of Public Works, as required by Indiana Code 36-4-10-4.5. The compensation for the Mayor, Common Council member, and Clerk-Treasurer were fixed by ordinance 2021-09-16, authorizing the 2022 biweekly compensation of the Mayor and Clerk-Treasurer and the monthly compensation for the Common Council members.

In addition, ordinance 2021-09-16 approved a separate stipend per public meeting compensation of \$275 for members of the Board of Public Works and Safety, Mayor, and the Clerk-Treasurer for attending the Board of Public Works and Safety meetings.

The positions of the Mayor, Common Council, and Clerk-Treasurer have been determined to be a lucrative office. Per Indiana Statute, the members and Clerk of the Board of Public Works and Safety were not entitled to receive additional per meeting compensation for the positions since they already hold a lucrative office as either the Mayor, Common Council member, or the Clerk-Treasurer. In 2022, the overpayments to the officials for attending the Board of Public Works and Safety were \$6,050, \$6,600, and \$6,325 for the Mayor, Common Council member, and Clerk-Treasurer, respectively.

Criteria

Indiana Code 3-8-1-3 states: "A person may not hold more than one (1) lucrative office at a time, as provided in Article 2, Section 9 of the Constitution of the State of Indiana."

Indiana Code 36-4-9-8 states in part:

"(a) This section applies only to third class cities. . . .

(c) The board of public works and safety consists of three (3) or five (5) members (as determined by the city executive). The members of the board of public works and safety are:

- (1) the city executive; and
- (2) two (2) or four (4) persons appointed by the executive."

COMMON COUNCIL
CITY OF CROWN POINT
AUDIT RESULTS AND COMMENTS
(Continued)

Indiana Code 36-4-10-4.5 states in part:

"(a) This section applies to third class cities.

(b) The fiscal officer is the head of the city department of finance. The fiscal officer shall do the following: . . .

(8) Serve as clerk of the board of public works by attending meetings, preparing agendas, and recording proceedings. . . ."

Indiana Code 36-4-7-2 states in part:

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(b) The city legislative body shall, by ordinance, fix the annual compensation of all elected city officers. An ordinance adopted under this subsection that fixes the annual compensation of an elected city officer shall provide for an annual, monthly, or biweekly salary schedule. An elected city officer is not required to report hours worked and may not be compensated based on the number of hours worked."

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COMMON COUNCIL
CITY OF CROWN POINT
AUDIT RESULTS AND COMMENTS
(Continued)

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CLERK-TREASURER
CITY OF CROWN POINT

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CITY OF CROWN POINT
AUDIT RESULTS AND COMMENTS

CONTRACTS

Condition and Context

The Board of Public Works and Safety (Board) awarded a \$3,902,976 contract for 2022 paving projects on April 20, 2022. Upon review of the contract documents and payment activity, the following occurred:

1. Invoices noted five change orders from July to September totaling \$145,826. The July change order totaling \$7,150 was approved by the Board. However, the August and September change orders totaling \$138,676 were not approved by the Board as required.
2. Payments of \$5,554,890 were made to the contractor for the 2022 paving projects. The amount paid exceeded the original contract plus change orders by \$1,506,088 or 42 percent. Indiana Code 36-1-12-18 limits the total of all change orders issued that increase the scope of the project not to exceed 20 percent of the amount of the original contract.

In addition, payments for engineering services for four projects exceeded contract amounts by \$206,156.

Criteria

Indiana Code 36-1-12-18 states:

"(a) If, in the course of the construction, reconstruction, or repair of a public work project, it becomes necessary to change or alter the original specifications, a change order may be issued to add, delete, or change an item or items in the original contract. The change order becomes an addendum to the contract and must be approved and signed by the board and the contractor.

(b) If a licensed architect or engineer is assigned to the public work project, the change order must be prepared by that person.

(c) A change order may not be issued before commencement of the actual construction, reconstruction, or repairs except in the case of an emergency. In that case, the board must make a declaration, and the board's minutes must show the nature of the emergency.

(d) The total of all change orders issued that increase the scope of the project may not exceed twenty percent (20%) of the amount of the original contract. A change order issued as a result of circumstances that could not have been reasonably foreseen does not increase the scope of the project.

(e) All change orders must be directly related to the original public work project.

(f) If additional units of materials included in the original contract are needed, the cost of these units in the change order must be the same as those shown in the original contract."

Payments made or received for contractual services must be supported by a written contract. Each unit is responsible for complying with the provisions of its contracts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

CLERK-TREASURER
CITY OF CROWN POINT
AUDIT RESULTS AND COMMENTS
(Continued)

BOARD OF PUBLIC WORKS AND SAFETY COMPENSATION

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AUDIT RESULTS AND COMMENTS
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OFFICE OF THE MAYOR

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CLERK-TREASURER
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EXIT CONFERENCE

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BOARD OF PUBLIC WORKS AND SAFETY
CITY OF CROWN POINT

BOARD OF PUBLIC WORKS AND SAFETY
CITY OF CROWN POINT
AUDIT RESULT AND COMMENT

CONTRACTS

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(b) If a licensed architect or engineer is assigned to the public work project, the change order must be prepared by that person.

(c) A change order may not be issued before commencement of the actual construction, reconstruction, or repairs except in the case of an emergency. In that case, the board must make a declaration, and the board's minutes must show the nature of the emergency.

(d) The total of all change orders issued that increase the scope of the project may not exceed twenty percent (20%) of the amount of the original contract. A change order issued as a result of circumstances that could not have been reasonably foreseen does not increase the scope of the project.

(e) All change orders must be directly related to the original public work project.

(f) If additional units of materials included in the original contract are needed, the cost of these units in the change order must be the same as those shown in the original contract."

Payments made or received for contractual services must be supported by a written contract. Each unit is responsible for complying with the provisions of its contracts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

BOARD OF PUBLIC WORKS AND SAFETY
CITY OF CROWN POINT
EXIT CONFERENCE

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